

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LARRY KEATLEY, an individual; VIRGIL
RASK, an individual; and MATTHEW
LINDLEY, an individual;

Plaintiffs,

vs.

UNION PACIFIC RAILROAD COMPANY, a
corporation;

Defendant.

8:21CV455

**FIFTH AMENDED
FINAL PROGRESSION ORDER**

This matter comes before the Court on the Motion to Continue Pretrial Deadlines ([Filing No. 59](#)). After review of the parties' motion, the Court finds good cause to grant the requested extensions. Accordingly,

IT IS ORDERED that the Motion to Extend the Progression Order ([Filing No. 59](#)) is granted, and the fourth amended final progression order is amended as follows:

- 1) The deadlines for identifying expert witnesses and completing expert disclosures¹ for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiffs:

August 26, 2024

For the defendant:

October 28, 2024

- 2) The deadline for completing written discovery under Rules 33, 34, 36 and 45 of the Federal Rules of Civil Procedure is **October 25, 2024**. Motions to compel written discovery under Rules 33, 34, 36 and 45 must be filed by **November 8, 2024**.

Note: A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference for discussing the parties' dispute.

- 3) The trial and pretrial conference will not be set at this time. The status conference presently scheduled for August 8, 2024, is canceled. A planning conference to discuss case progression, the parties' interest in settlement, and the trial and pretrial conference settings will be held with the undersigned magistrate judge by telephone on **November 8, 2024, at 10:00 a.m.** Counsel shall use the conferencing instructions assigned to this case to participate in the conference. ([Filing No. 57](#)).

¹ While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclose/

- 4) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is **November 21, 2024**.
 - a. The maximum number of depositions that may be taken by the plaintiffs as a group and the defendants as a group is 20.
 - b. Depositions will be limited by Rule 30(d)(1).
- 5) The deadline for filing motions to dismiss and motions for summary judgment is **December 9, 2024**.
- 6) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is **December 9, 2024**.
- 7) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 8) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 28th day of May, 2024.

BY THE COURT:

s/ Michael D. Nelson
United States Magistrate Judge